



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,082	10/10/2001	Poul Bjerre	005432.00002	4671
22907	7590	05/05/2004	EXAMINER	
BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,082

Applicant(s)

BJERRE ET AL.

Examiner

Jamisue A. Webb

Art Unit

3629

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Art Unit: 3629

DETAILED ACTION

Drawings

1. This application, filed under former 37 CFR 1.60, lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 2-4 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 2, 3 and 16 recite the limitation "the common carrier system". There is insufficient antecedent basis for this limitation in the claims.
5. With respect to Claim 4: the phrase "at least one of the registered entities" is indefinite. Pervious in the claims, they recite "any entity registered", which is positively claiming only one entity. The phrase above implies that there is more than one registered entities, therefore it is unclear who "the registered entities are".

Claim Rejections - 35 USC § 101

Claims 1-8 and 13-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Art Unit: 3629

- The basis of this rejection is set forth in a two-prong test of:
 - (1) whether the invention is within the technological arts; and
 - (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e. abstract idea, law of nature, natural phenomena) that do not apply, involve use or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., physical sciences as opposed to social sciences for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use or advance the technological arts.

In the present case, claims 1-8 and 13-16 only recite an abstract idea. The recited steps of merely sending a booking request through a user interface does not apply, involve, use or advance the technological arts since all the recited steps can be performed in the mind of the user or by use of a pencil and paper, and due to the fact that the applicant has defined a user interface as merely a way of communication. These steps only constitute an idea of how to submit a booking request.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete and tangible result. In the present case, the claimed invention produces a result of booking a request and transporting goods.

Although the recited process produces a useful, concrete and tangible results, since the claimed invention, as a whole is not within the technological arts as explained above, claims 1-8 and 13-16 are deemed to be directed to non-statutory subject matter.

Art Unit: 3629

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-8 and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Kluss (6,463,419).

8. With respect to Claim 1: Kluss discloses the use of a system comprising a common carrier interface (See Figure 17, column 4, lines 34-55). The interface enabling a user to create a booking request, submit the booking request to an entity then receive confirmation from the entity (column 9, lines 23-29).

9. With respect to Claims 2-4: Kluss discloses the user interface can be customized by the user (column 7 line 42 to column 8 line 2 and column 14, lines 49-65).

10. With respect to Claim 5: Kluss discloses the system being used for maritime freight operations enabling a container to be transported (see abstract).

Art Unit: 3629

11. With respect to Claims 6 and 7: Kluss discloses the charterer and the owner of the ship engaging in negotiations to determine the cost of shipping. The examiner considers Kluss to disclose entering two booking requests, one when the initial cargo parameters into the system (Step 1604), submitted before price negotiations (claim 7), and then negotiations occur, and the conclusion of the negotiations where the user enters into a contract (Step 1608) being a second booking request done after negotiations (claim 6). Kluss also discloses that after negotiations are concluded the price is held for the user for a later day, therefore price negotiated before booking request (column 15, lines 52-58).

12. With respect to Claim 8: Kluss discloses a new user registering with the site (column 7, lines 1-17).

13. With respect to Claims 13 and 14: Kluss discloses the use of a system comprising a common carrier interface (See Figure 17, column 4, lines 34-55). The interface enabling a user to create a booking request, submit the booking request to an entity then receive confirmation from the entity (column 9, lines 23-29). Kluss discloses the generation of an event notification (column 26, lines 42-53) in the contract that is decided and entered into by both users, the charter and the owner of the ship (column 7, lines 47-67).

14. With respect to Claims 15 and 16: Kluss discloses the use of a notification of failure of delivery (non-even) or delay of delivery (column 26, line 42 to column 27 line 37).

Art Unit: 3629

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sharp et al. (6,263,317) discloses the use of a web sales system with shipping by a determined time, Theil (6,321,214) discloses the use of a selection of carriers from multiple carriers, Kadaba (6,539,360) discloses the use of a package transportation system, Danford-Klein et al. (6,061,667) discloses a rating engine for carrier contracts, Boucher et al. (6,078,889) discloses the use of a carrier manager library, Kara (6,233,568) discloses the use of a system for dispensing postage with an interface to select a carrier, Bains et al. (6,625,584) discloses the use of a maritime freight system, and Barni et al. (6,064,981) discloses the use of a negotiation of cargo rates.

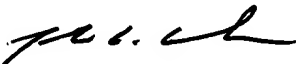
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamisue Webb


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600